

EXHIBIT C

**VIDEOTAPED DEPOSITION OF LAURENE McENENY
CONDUCTED ON THURSDAY, JUNE 10, 2010**

1 (Pages 1 to 4)

1	1	THE VIDEOGRAPHER: This is the
2	2	video operator speaking, Douglas Huebner of
3	3	Merrill Legal Solutions. Today is June 10,
4	4	2010, and the time is 10:44.
5	5	We are at the offices of Goodwin
6	6	Procter, 620 Eighth Avenue, New York, New
7	7	York, to take the video deposition of
8	8	Laurene McEneny, in the matter of ePlus,
9	9	Inc. versus Lawson Software, Inc., in the
10	10	United States District Court, Eastern
11	11	District of Virginia, Richmond Division,
12	12	Case No. 3:09-cv-620.
13	13	Will counsel please introduce
14	14	themselves for the record.
15	15	MR. REDDY: Srikanth Reddy from the
16	16	law firm of Goodwin Procter on behalf of
17	17	the plaintiff ePlus, Inc.
18	18	MR. ROBERTSON: Scott Robertson
19	19	from Goodwin Procter for plaintiff.
20	20	MS. HUGHEY: Rachel Hughey from
21	21	Merchant & Gould for defendant Lawson
22	22	Software.
23	23	MR. SAHNER: Todd M. Sahner from
24	24	Marcus Brody on behalf of the witness.
25	25	THE VIDEOGRAPHER: Will the court
1	1	reporter please swear the witness.
2	2	L A U R E N E M c E N E N Y,
3	3	having been first duly sworn by the Notary
4	4	Public (Eric J. Finz), was examined and
5	5	testified as follows:
6	6	EXAMINATION BY
7	7	MR. REDDY:
8	8	Q. Good morning. Would you please
9	9	state your full name for the record?
10	10	A. My name is Laurene Jean, maiden
11	11	name, which I used in business is Fielder, and
12	12	my married name is McEneny.
13	13	Q. Do you have a preference of
14	14	Ms. McEneny versus Ms. Fielder?
15	15	A. That's fine.
16	16	Q. I'll try to make sure I get that
17	17	correct. I was hoping you'd say Fielder.
18	18	A. Before we sold the company I would
19	19	have, but now I'm officially a one name person
20	20	here.
21	21	Q. My name is Srikanth Reddy, I
22	22	represent the plaintiff in this matter, ePlus,
23	23	Inc.
24	24	Ms. McEneny, do you understand that
25	25	your answers today are being given under oath
1	1	ALSO PRESENT:
2	2	DOUGLAS HUEBNER, Videographer
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6 (Pages 21 to 24)

<p>1 Q. Just here testifying today, do you 2 recall the specific functionality that might 3 have been added from version 1 to version 12? 4 A. I remember some of it. 5 Q. Now, you testified that you no 6 longer are employed by or have any interest with 7 P.O. Writer -- I'm sorry, with Purchasing Net; 8 correct? 9 A. Correct. 10 Q. Have you retained any documents 11 from either Purchasing Net or American Tech that 12 were generated while you were affiliated with 13 those two companies? 14 A. I probably have a few things. Some 15 files. I have kept a couple of folders on 16 customers, you know, we were working with just 17 to make sure if anybody had any questions that 18 they wanted to call me, you know, they could. 19 So just trying to be helpful to the staff that 20 was left behind. We sold the company, so still 21 felt some responsibility to the people. 22 Q. So other than the customer folders, 23 are you aware of any other documents that you 24 might have retained from Purchasing Net? 25 A. You know, I'm not really sure, we</p>	<p>21 1 A. To me it would be the same, it was 2 just a name change. 3 Q. Did American Tech have a general 4 policy with regards to the schedule by which it 5 would release different versions of the P.O. 6 Writer project? 7 A. Generally we did one major release 8 per year. 9 Q. So between 1984 and 1995, that's 10 twelve years actually, correct? I'm sorry, I'll 11 withdraw that question as well. 12 So the twelve DOS versions of the 13 P.O. Writer software, were each of those 14 versions released between 1984 and 1995? 15 A. Yes. 16 Q. Now, if I can start with -- I'm 17 sorry, so I think you testified that version 18 number 2 was released in 1985; correct? 19 A. I'd have to double-check, but that 20 sounds right. 21 Q. Was version 3 -- when was version 3 22 released then? 23 A. Generally they would be one major 24 release per year. That was the general 25 practice. So if you ask me about 3 then 4 then</p>
<p>1 do have some things in the garage. And the 2 reason is Tim is writing a book, and I know he 3 saved some things. But I honestly don't know 4 what he has specifically. 5 Q. Now, I think you testified that 6 version 1 of the P.O. Writer software was 7 released in 1984; correct? 8 A. I believe that's correct. 9 Q. Do you recall when the second 10 version of P.O. Writer was released? 11 A. Probably about a year later, but I 12 don't know the exact date. 13 Q. So during that time frame, the 14 company was known as American Tech, correct? 15 So in general I'll try to refer to 16 it as American Tech for the company that you and 17 your husband started, which became Purchasing 18 Net in 2000 and which you subsequently sold in 19 2009. 20 A. Um-hum. 21 Q. Does that make sense? 22 A. That's fine. 23 Q. And if you have any questions at 24 any time as to what entity I'm referring to, you 25 could certainly feel free to ask.</p>	<p>22 1 5, they kind of fall along that line. It was 2 the general practice to try and do that. 3 Q. Now, when was version 10 of the 4 P.O. Writer product released? 5 A. It was released in the -- well, can 6 I check my notes? I want to double-check to 7 make sure I get this right. 8 Q. Sure. 9 A. Should be '83, but let me just 10 double-check. 11 Yes, '83. I'm sorry, '93. 12 Q. When you say you were checking your 13 notes, the notes you were checking was your 14 testimony from the SAP case; is that correct? 15 A. That's right. 16 Q. Now, other than your testimony from 17 the SAP case, is there anything else that you 18 have to corroborate that version 10 of the P.O. 19 Writer product was released in 1993? 20 A. No. Just everything I testified to 21 originally would still be true. 22 MR. REDDY: I'm handing to the 23 reporter what I'll ask him to mark as 24 McEneny Exhibit No. 2. 25 (McEneny Exhibit 2 for</p>

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<p>1 that there was not a prohibition against 2 duplication of either the software or the 3 manuals with respect to the trial version of the 4 software?</p> <p>5 MS. HUGHEY: Objection; asked and 6 answered.</p> <p>7 A. Yeah, I think I've already answered that.</p> <p>8 Q. What was your answer?</p> <p>9 A. My answer is I believe that it was most probable that there was some kind of wording to protect us on that. But I couldn't say for sure unless I had the agreement in front of me.</p> <p>10 Q. If I could return for a moment to 11 Exhibit No. 2, which was I believe the guided 12 tour.</p> <p>13 A. Okay. Got it.</p> <p>14 Q. And the page which we've been 15 referring to as L 126664. Which were the 16 results from the purchase requisitioning 17 section.</p> <p>18 A. Okay.</p> <p>19 Q. So if a user selected an item from 20 this list, at this point was there any way that</p>	<p>89</p> <p>1 A. That's correct.</p> <p>2 Q. And those user defined fields could 3 not have been searched in the version 10 of the 4 P.O. Writer Plus system; correct?</p> <p>5 MS. HUGHEY: Objection; 6 mischaracterizes the witness' testimony.</p> <p>7 A. The user defined fields could not be searched to do an item look up. And to my knowledge, and based on what's in this document, they couldn't be searched in this version. That's my understanding after looking at this document.</p> <p>8 So they were there for reference.</p> <p>9 Q. You can set that document aside. 10 (McEneny Exhibit 5 for 11 identification, document entitled "Tenth 12 Edition," production numbers L 126501 13 through L 126513.)</p> <p>14 MR. REDDY: I've handed a document 15 to be marked as Exhibit No. 5, which is a 16 document Bates labelled L 126501 through 17 126513. And at the top it states "tenth 18 edition," in parentheses, April 1993.</p> <p>19 Q. If you can take a few moments to 20 familiarize yourself with that document.</p>	<p>91</p>
<p>1 a user could cross-reference this item with 2 other items in the P.O. Writer database?</p> <p>3 MS. HUGHEY: Objection; vague.</p> <p>4 Q. You can answer if you understand 5 the question.</p> <p>6 A. On this screen, they're looking at a list of items that match their search criteria. If they were to select the combination, the ship forward to look for additional information, that's shown on the next page, the 665.</p> <p>7 The only way in this version that they could cross-reference is if they chose, as a customer, to implement the user defined fields or to provide additional information in the extended description area as to what a cross-reference might be. So that would strictly be how that particular customer might have chosen to implement the product.</p> <p>8 Q. And as we discussed earlier, that 9 additional line information, the user defined 10 fields within the additional line information, 11 was entirely up to the user to enter whatever 12 information they wanted to in those fields; 13 correct?</p>	<p>90</p> <p>1 And do you recognize the collection of approximately twelve pages of documents?</p> <p>2 A. Yes, I recognize these as pages from the purchasing manual at that point in time.</p> <p>3 Q. Now, when you say that point in 4 time, what are you referring to?</p> <p>5 A. Spring of '93.</p> <p>6 Q. And is that referring to version 10 7 of the P.O. Writer Plus software?</p> <p>8 A. That's correct. This specifically would be relating to the purchasing module.</p> <p>9 Q. Now, if I can direct your attention 10 to the third page of the document. It states 11 "no part of this work may be reproduced or used 12 in any way for or by any means, graphic, 13 electronic or mechanical, including 14 photocopying, recording, taping or information 15 storage and retrieval systems, without express 16 permission from American Tech, Inc."</p> <p>17 Did I read that correctly?</p> <p>18 A. Yes.</p> <p>19 Q. Now, was that prohibition against 20 copying of the manual placed on every manual 21 sent by American Tech with respect to version 10</p>	<p>92</p>

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<p>1 of the P.O. Writer product?</p> <p>2 A. I don't know if this appeared on</p> <p>3 every manual.</p> <p>4 Q. Do you have any reason to believe</p> <p>5 that that prohibition did not exist on each of</p> <p>6 the manuals that were released?</p> <p>7 A. I couldn't speak to that. All I</p> <p>8 know is it's on this one. I really don't know</p> <p>9 if it's on the others.</p> <p>10 Q. Why was this information contained</p> <p>11 in the manual?</p> <p>12 A. Again, I'm sure, like I said</p> <p>13 earlier, it's kind of our practice to try and</p> <p>14 protect ourselves.</p> <p>15 Q. When you say protect yourselves,</p> <p>16 what do you mean by that?</p> <p>17 A. So people don't copy the software</p> <p>18 and the users manuals.</p> <p>19 Q. So in general did American Tech</p> <p>20 have a practice of trying to prevent people from</p> <p>21 copying the software and the users manuals --</p> <p>22 and the user manuals?</p> <p>23 A. Well, yes, we did. We didn't want</p> <p>24 a company to buy one copy of our product and pay</p> <p>25 for it and get the password, and then copy the</p>	93	<p>1 A. That's correct. There are other --</p> <p>2 this represents -- yes, these are the other</p> <p>3 modules that were available.</p> <p>4 Q. Are there any other modules that</p> <p>5 were available, to your knowledge, with respect</p> <p>6 to version 10 of the program that aren't stated</p> <p>7 in this specific paragraph?</p> <p>8 A. You know, I probably want to map</p> <p>9 this to the license agreement at the time.</p> <p>10 Vendor performance is listed in the</p> <p>11 manual and on the license agreement it's called</p> <p>12 supplier performance. It's the same module.</p> <p>13 Accounts payable interface is AP</p> <p>14 interface module.</p> <p>15 Inventory control is the same.</p> <p>16 Requisitioning is purchase</p> <p>17 requisitioning module in the license agreement.</p> <p>18 Ad hoc reporting is the same.</p> <p>19 DD interface utility is there.</p> <p>20 Remote requisitioning is listed in</p> <p>21 the purchasing manual, and not called out</p> <p>22 specifically on the license agreement.</p> <p>23 And remote requisitioning interface</p> <p>24 is listed in the manual and not called out</p> <p>25 specifically on this license agreement that we</p>	95
<p>1 software and copy the manuals and, you know,</p> <p>2 send it to other facilities or friends and</p> <p>3 family or whatever. So that's a large concern</p> <p>4 of any software company.</p> <p>5 Q. If I can direct your attention to</p> <p>6 the document in the manual, it's 1-1. I</p> <p>7 actually need to reference the SAP number, which</p> <p>8 is 803288. I believe it's 1-1. And the heading</p> <p>9 is "getting started."</p> <p>10 A. Yes.</p> <p>11 Q. If I can direct your attention to</p> <p>12 the paragraph that begins "the purchasing module</p> <p>13 is the foundation of the P.O. Writer Plus family</p> <p>14 of programs."</p> <p>15 A. Yes.</p> <p>16 Q. Do you see that paragraph?</p> <p>17 A. I do.</p> <p>18 Q. And there are several other modules</p> <p>19 that are located in that paragraph; is that</p> <p>20 correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Are these the other modules that we</p> <p>23 discussed earlier that a customer had the option</p> <p>24 of purchasing after they purchased the</p> <p>25 purchasing module?</p>	94	<p>1 had for Bank United.</p> <p>2 Fax/EDI interface, X12 translation.</p> <p>3 And the bar code interface.</p> <p>4 So it looks like these were the</p> <p>5 modules available at that time.</p> <p>6 Q. Now, I notice that you were looking</p> <p>7 at Fielder Exhibit No. 4, which was the two-page</p> <p>8 document indicating a note report to Bank United</p> <p>9 of Texas; is that correct?</p> <p>10 A. I was actually looking at the</p> <p>11 second page of that, it's the P.O. Writer Plus</p> <p>12 license agreement that lists the modules on the</p> <p>13 top left side.</p> <p>14 Q. And this specific license agreement</p> <p>15 was signed in January of 1994; correct?</p> <p>16 A. This one was, that's correct.</p> <p>17 Q. And was this the standard license</p> <p>18 agreement used by American Tech with respect to</p> <p>19 the P.O. Writer Plus product as of January 1994?</p> <p>20 A. Well, the manual was released in</p> <p>21 '93. This particular license agreement was</p> <p>22 signed in '94. And I don't see a date on this</p> <p>23 license agreement. So the only thing I could</p> <p>24 tell you is that this is what we were using on</p> <p>25 January 24th of '94.</p>	96

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<p>1 Q. Did American Tech have a practice 2 of writing different license agreements for 3 different customers?</p> <p>4 A. We had a practice of having a 5 general license agreement. But occasionally a 6 customer would want to make a modification to 7 it. They would get their attorneys involved or. 8 So occasionally. It was not -- it was not the 9 norm that we would change the license agreement. 10 but occasionally we would.</p> <p>11 Q. But the license agreement that's 12 depicted in this specific exhibit, is that your 13 understanding that this was the standard license 14 agreement used by American Tech in January of 15 1994?</p> <p>16 A. This looks like the standard used 17 in 1994, yeah.</p> <p>18 Q. Okay. Now, returning to Exhibit 19 No. 5.</p> <p>20 A. Um-hum.</p> <p>21 Q. And that specific paragraph we were 22 talking about. With respect to each of those 23 modules. So each of those -- a user wishing to 24 use those modules would have to purchase and 25 license that module separately; is that correct?</p>	<p>97</p> <p>1 Q. Now, directing you again to page 2 2-221 of the document.</p> <p>3 A. Um-hum.</p> <p>4 Q. The heading states "creating POs 5 from a catalog."</p> <p>6 A. Correct.</p> <p>7 Q. What is the purpose of this 8 section?</p> <p>9 A. Is to train an end user on how to 10 use a feature in the product that would allow 11 them to search the item master by catalog and 12 pick items and create a purchase order.</p> <p>13 Q. So a user, with respect to this 14 specific section, would take items from the 15 catalog and enter them directly on to a purchase 16 order; is that correct?</p> <p>17 A. That was a feature in the product, 18 that's correct.</p> <p>19 Q. Now, if I can direct your attention 20 to the page that's 2-229. At the top of the 21 page is a screenshot.</p> <p>22 And the screenshot depicts I 23 believe two items that will be purchased from a 24 specific vendor; is that correct?</p> <p>25 A. That's correct.</p>
<p>1 A. That's correct.</p> <p>2 Q. You can set that document aside. (McEneny Exhibit 6 for 3 identification, document, production 4 numbers L 126718 through L 126964.)</p> <p>5 Q. You've been handed a document which 6 is marked as Exhibit No. 6. It's a document 7 Bates labelled L 126718 to L 126964. And I'm 8 not going to ask you to go through it page by 9 page. But if you can maybe peruse it and look 10 up at me after you've had a chance to do so.</p> <p>11 It's actually only one specific 12 section of this document that I'd like to 13 discuss with you. If I can direct you to, at 14 the manual, it's at 2-221.</p> <p>15 And before you investigate that 16 page further, can I just ask generally do you 17 recognize this document that's been marked as 18 Exhibit No. 6?</p> <p>19 A. Yes, I do.</p> <p>20 Q. And what do you recognize it to be?</p> <p>21 A. As chapter 2 of the purchasing 22 module users manual, which was a self-paste 23 tutorial, to teach users how to use this 24 particular module.</p>	<p>98</p> <p>1 Q. Now, if I can direct your attention 2 to the note field, the first sentence states 3 "items in the Best Buy catalog can be purchased 4 from any vendor."</p> <p>5 Did I read that correctly?</p> <p>6 A. Yes, you did.</p> <p>7 Q. So by purchased from any vendor, 8 does that mean that the user can select the 9 supplier for that specific item?</p> <p>10 A. Yes, that's correct.</p> <p>11 Q. Now, with respect to the second 12 sentence, it states "also, the catalog 13 designation does not determine the vendor for 14 the purchase order."</p> <p>15 Did I read that correctly?</p> <p>16 A. Yes, you did.</p> <p>17 Q. Now, the catalog designation that 18 that's referring to, is that the same thing as 19 the catalog ID from the item master that we 20 discussed previously?</p> <p>21 A. Yes.</p> <p>22 Q. Now, when the statement says that 23 the catalog designation does not determine the 24 vendor for the purchase order, is that because 25 the user is the person who ultimately decides</p>

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<p>1 who the vendor will be for that item? 2 A. That's because the system would 3 allow the user to determine that. 4 Q. So my question was, the statement 5 says that the catalog designation does not 6 determine the vendor for the purchase order. Is 7 the reason for that because the user who 8 ultimately decides who the vendor will be can 9 select whom the vendor will be? 10 A. The reason is because we also allow 11 the user to determine that. So I could have two 12 items in a catalog called Staples, and I could 13 use Staples to select the item. And then I 14 could continue on and place the order with 15 Staples if I wanted. But I also was not limited 16 by the software. 17 And that's the point I think we're 18 trying to make here, you could, you being the 19 buyer, because that's who would use this module. 20 you could check -- change the vendor to, in this 21 example, Best Buy. 22 So the way the software worked is 23 you had the ability as an end user to specify 24 any supplier that you wanted. 25 Q. But the catalog information, the</p>	<p>101</p> <p>1 Q. In either respect, using either the 2 user defined fields or the extended description 3 field, that does not draw from the vendor master 4 file; correct? 5 A. That's correct. 6 Q. Now, if I can direct your attention 7 to the third paragraph here. It states "the 8 vendor field contains the last vendor that the 9 first item on this PO (in this case A2000) was 10 purchased from. The last PO created for A2000 11 was from vendor number 12345-Best Buy Supply. 12 If the last PO for A2000 was for vendor number 13 NAPC-1, (North American Packaging) NAPC-1 would 14 be displayed in the vendor field." 15 Did I read that correctly? 16 A. Yes, you did. 17 Q. So does that paragraph indicate 18 that the vendor for this specific purchase order 19 is determined solely from the last vendor for 20 that specific item? 21 A. In this example, yes. 22 Q. And the only other way that the 23 vendor could be changed is if the user manually 24 selected a different vendor; is that correct? 25 A. That's correct.</p>
<p>1 catalog ID field that was from the item master, 2 that catalog ID was not associated with any 3 specific vendor in the system; correct? 4 MS. HUGHEY: Objection; vague. 5 A. That's right. The catalog ID and 6 the item master is really a way to group items 7 together, to make it easy for a user to select 8 those items. 9 Q. And the user is the one that sets 10 and determines what the catalog will be; 11 correct? 12 A. A user could be a requisitioner, 13 part of that community, or a user could be a 14 buyer. And they both can use the same catalog 15 ID. So again, that's only one catalog ID in the 16 item master file. 17 Q. So there was no way to associate 18 the catalog ID with the vendor master file; 19 correct? 20 MS. HUGHEY: Objection; vague. 21 A. The only way that you could 22 associate it was through use of the user defined 23 fields or through providing additional 24 information in the extended description field, 25 which would be a reference.</p>	<p>102</p> <p>1 Q. And then if I can direct your 2 attention two pages further. It's page 2-231 in 3 the manual. And the heading states "major 4 points to remember." 5 And when you decide in this manual, 6 what was the purpose of the major points to 7 remember highlight? 8 A. Just to summarize some of the key 9 concepts for the user. Things that they would 10 have learned in that chapter. 11 Q. Now, if I can direct your attention 12 to the second to last point to remember, it 13 states "the catalog designation does not 14 determine the vendor for the purchase order. 15 The default vendor is determined by the previous 16 purchase for the first item on the purchase 17 order." 18 A. For this tutorial lesson, that is a 19 key major point to remember. 20 Q. You can put that document aside as 21 well. 22 MR. REDDY: If we can maybe take 23 just a quick two minute break I think I may 24 be done. 25 MR. SAHNER: We can take a</p>

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<p>1 trial?</p> <p>2 A. No.</p> <p>3 MR. REDDY: In that case I don't</p> <p>4 have any further questions at this time. I</p> <p>5 may have some additional questions based on</p> <p>6 Ms. Hughey's questioning.</p> <p>7 EXAMINATION BY</p> <p>8 MS. HUGHEY:</p> <p>9 Q. Hello, Ms. McEneny, I'm going to be</p> <p>10 asking you some questions. You understand that</p> <p>11 I represent Lawson.</p> <p>12 A. Yes.</p> <p>13 (Lawson Exhibit 95 for</p> <p>14 identification, document, production</p> <p>15 numbers ePLUS 0219927 through ePLUS</p> <p>16 0219937.)</p> <p>17 Q. I'm going to hand you what's been</p> <p>18 marked as Exhibit 95.</p> <p>19 Do you recognize this document?</p> <p>20 A. I do.</p> <p>21 Q. What is this document?</p> <p>22 A. This is a brochure that we used to</p> <p>23 sell our client support program.</p> <p>24 Q. Can you turn to page ePlus 0219928</p> <p>25 of the document that's been marked Lawson</p>	<p>109</p> <p>1 So that was our decision to just improve the</p> <p>2 value of this program, because it was pretty</p> <p>3 much a major revenue stream for the company.</p> <p>4 (Lawson Exhibit 96 for</p> <p>5 identification, document, production</p> <p>6 numbers ePLUS 0219612 through ePLUS</p> <p>7 0219619.)</p> <p>8 Q. I'm going to hand you what's been</p> <p>9 previously marked as Lawson Exhibit 96. And</p> <p>10 this is numbered ePLUS 0219612 to 619.</p> <p>11 Do you recognize this document?</p> <p>12 A. Yes.</p> <p>13 Q. What is this document?</p> <p>14 A. This was a direct mail piece that</p> <p>15 we had printed and we would send to prospects</p> <p>16 and customers.</p> <p>17 Q. Can you turn to page ePLUS 0219616.</p> <p>18 The third page of this document.</p> <p>19 What is this document showing?</p> <p>20 A. This is the insert that would be in</p> <p>21 this particular brochure. And it is listing the</p> <p>22 modules, the prices that they're being sold at,</p> <p>23 and a special discount offer that we had at that</p> <p>24 time.</p> <p>25 Q. And so is it consistent to say that</p>
<p>1 Exhibit 95, which for the record has a range</p> <p>2 ePLUS 0219927 to 0219937. So this is the second</p> <p>3 page of the document.</p> <p>4 Do you see where it says "new</p> <p>5 releases automatically."</p> <p>6 A. Yes.</p> <p>7 Q. Is this consistent with your</p> <p>8 testimony that you did about one major release a</p> <p>9 year?</p> <p>10 A. Yes.</p> <p>11 Q. So would it be fair to say that</p> <p>12 version 9.0 would have been released sometime in</p> <p>13 the spring or summer of 1992?</p> <p>14 A. Yes.</p> <p>15 Q. And version 10 would have been</p> <p>16 released sometime in the spring or summer of</p> <p>17 1993?</p> <p>18 A. Correct.</p> <p>19 Q. Why do you have a regular release</p> <p>20 date?</p> <p>21 A. One of the -- one of the reasons --</p> <p>22 well, let's put it this way, a big part of our</p> <p>23 revenue would come from support revenue. And so</p> <p>24 in addition to just supporting customers, we</p> <p>25 also included major releases as a major feature.</p>	<p>110</p> <p>1 purchasing, receiving, vendor performance,</p> <p>2 inventory control, AP interface, report writer,</p> <p>3 data interface utility, EDI interface, remote</p> <p>4 requisitioning and bar code interface were on</p> <p>5 sale as of December 31, 1989?</p> <p>6 A. Yes.</p> <p>7 Q. You can put that aside.</p> <p>8 (Lawson Exhibit 97 for</p> <p>9 identification, document, production</p> <p>10 numbers ePLUS 0219493 through ePLUS</p> <p>11 0219494.)</p> <p>12 Q. I'm handing you what's been marked</p> <p>13 Lawson Exhibit 97, which has the Bates range</p> <p>14 ePLUS 0219493 to 94. And this is Exhibit 1 in</p> <p>15 that binder I handed you.</p> <p>16 Do you recognize this document?</p> <p>17 A. I do.</p> <p>18 Q. What is this document?</p> <p>19 A. The first page is -- are notes from</p> <p>20 our contact management system. And the second</p> <p>21 page is a P.O. Writer Plus license agreement for</p> <p>22 a law firm in Chicago, Kirkland & Ellis.</p> <p>23 Q. Is this document consistent with</p> <p>24 your testimony that Lawson version 10 -- I'm</p> <p>25 sorry, strike that.</p>

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29 (Pages 113 to 116)

<p>1 Is this consistent with your 2 testimony that P.O. Writer version 10 was on 3 sale as of at least June 9, 1993? 4 MR. REDDY: Objection; 5 mischaracterizes testimony. 6 MS. HUGHEY: Let me rephrase. 7 Q. Does this document reflect when 8 P.O. Writer version 10.0 was on sale? 9 MR. REDDY: Objection; leading. 10 MS. HUGHEY: Let me rephrase. 11 Q. Does this document reflect when 12 P.O. Writer version 10 was on sale or not? 13 A. Yes, it does. 14 Q. And when was P.O. Writer version 10 15 on sale? 16 A. We started shipping in the spring. 17 I can -- you want me to just explain what this 18 is? 19 Q. Yes. 20 A. On the first page, on the bottom is 21 a note from January 7th of '93. And it's simply 22 stating that we shipped purchased versions, as 23 opposed to shipped trial version, that would be 24 the definition in how we would keep the notes. 25 And that's a version 9 multiuser version for</p>	<p>113</p> <p>1 Q. And was version 10 sold before 2 August 10, 1993? 3 A. Yes. 4 Q. Was version 10 used by customers 5 before August 10, 1993? 6 A. I would say yes, it was. I think 7 there is some other exhibits perhaps that maybe 8 where there were support questions. I think 9 you'd want to refer to the testimony. So I'll 10 just say that I would look and see if there is 11 support notes. 12 Q. Did you demonstrate the version 10 13 product before August 10, 1993? 14 A. Absolutely. 15 Q. Were version 10 manuals shipped to 16 customers before August 10, 1993? 17 A. Yes. 18 Q. Was that the document that you 19 would provide to any customer who would buy 20 version 10, the manual? 21 A. Yes. 22 Q. How long was the P.O. Writer 23 manual? 24 MR. REDDY: Objection; vague as to 25 which manual.</p>
<p>114</p> <p>1 between five and seven users. PM indicates it's 2 a purchasing multiuser version, and then behind 3 that's the serial number. 4 So they are purchasing and 5 receiving a fax interface. Then a note was 6 entered on February 8th, we received a fax copy 7 and a check. So they bought the software. 8 And then above that, the top note 9 then indicates on June 9, '93, we shipped them, 10 it says CSP rollout version. What that stands 11 for is client support program rollout version. 12 So that would mean that they were entitled to 13 software and this was the software we shipped 14 them. So they may have decided they, you know, 15 wanted their upgrade then. But that's what that 16 would indicate to me. 17 Q. So did you ship Kirkland & Ellis 18 version 10.0 software on June 9, 1993? 19 A. That's what this indicates. 20 Q. And when was version 10 released? 21 A. I don't know the exact date. But 22 it was in the spring of '93. 23 Q. Was version 10 released before 24 August 10, 1993? 25 A. Yes, it was.</p>	<p>116</p> <p>1 Q. My understanding is that in the 2 spring of 1993 you released version 10.0. Is 3 that accurate or not? 4 A. Yes. 5 Q. Did a manual -- did you have a 6 manual that went along with that version 10.0 7 product? 8 A. The way the manuals were structured 9 is the major modules had a manual. And there 10 would be a module -- a manual for each module 11 that would have been available at that point in 12 time. 13 Q. Approximately how many volumes were 14 there? 15 A. Volumes? Well, there would be one 16 for each major module. So there would be 17 purchasing manual, receiving manual, inventory 18 control manual. Because again, the way we sold 19 the product is you didn't have to buy the whole 20 suite, you bought -- you tried what you wanted 21 to use, if you bought it, you kept the manual, 22 kept the software. So it was packaged that way. 23 But there were prerequisites, you'd 24 have to have a purchasing module to make 25 everything else work. So everybody had at least</p>

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32 (Pages 125 to 128)

1	125	1	127
2		2	identification, Subpoena.)
3		3	Q. I'm handing you what's been marked
4		4	Lawson Exhibit 104. It is not a manual. I'm
5		5	going a little bit out of order because I wanted
6		6	to preserve the numbering of my documents.
7		7	Do you recognize that document?
8		8	A. Yes, I do.
9		9	Q. What is this document?
10		10	A. This was the subpoena emailed to me
11		11	by you to appear here today.
12		12	Q. Okay, I have no further questions
13		13	on that document.
14		14	(Lawson Exhibit 105 for
15		15	identification, document, production
16		16	numbers L 0126702 through L 0126717.)
17		17	Q. I'm handing you what's been marked
18		18	Lawson Exhibit 105. It's Bates number L 0126702
19		19	to L 0126717.
20		20	Do you recognize this document?
21		21	A. Yes.
22		22	Q. What is this document?
23		23	A. The users manual for the P.O.
24		24	Writer Plus fax module.
25		25	Q. Does this accurately represent the
			product that was sold to customers prior to
1	126	1	128
2		2	August 10, 1993?
3		3	A. Yes.
4		4	Q. Is this a document that's provided
5		5	to customers prior to August 10, 1993?
6		6	A. Yes.
7		7	Q. Okay, I have no further questions
8		8	on that document.
9		9	MR. SAHNER: Can we go off the
10		10	record for one second.
11		11	THE VIDEOGRAPHER: Going off the
12		12	record at 2:44.
13		13	(Discussion off the record.)
14		14	THE VIDEOGRAPHER: Back on the
15		15	record, 2:45.
16		16	(Lawson Exhibit 106 for
17		17	identification, document, production
18		18	numbers L 0127297 through L 0127504.)
19		19	BY MS. HUGHEY:
20		20	Q. I'm going to hand you what's been
21		21	marked Lawson Exhibit 106. It's marked L
22		22	0127297 to L 0127504.
23		23	Do you recognize this document?
24		24	A. Yes, I do.
25		25	Q. What is this document?
			A. It's the users manual for the P.O.

<p>1 Q. Is it your understanding that this 2 was the manual for the version 10.0 product? 3 A. Yes. This is the guided tour for 4 the 10.0 product. 5 Q. Does this accurately represent the 6 product that was sold to customers prior to 7 August 10, 1993? 8 A. Yes. 9 Q. Is this a document that was 10 provided to customers prior to August 10, 1993? 11 A. Yes. 12 Q. And then I'd also like you to turn 13 to McEneny Exhibit 6. I think it begins at the 14 top "purchasing tutorial." 15 A. Yes. 16 Q. And I think we spoke already 17 that -- one second. 18 MS. HUGHEY: Could we take a 19 two-minute break so I can arrange myself? 20 MR. REDDY: Sure. 21 THE VIDEOGRAPHER: Going off the 22 record at 3:03. 23 (A recess was taken.) 24 THE VIDEOGRAPHER: Back on the 25 record, 3:12, this is the beginning of tape</p>	<p>141 1 actual manual, not the Bates number. 2 MS. HUGHEY: Yes, I can do that. 3 It's like third to last page. 4 THE WITNESS: I think it's 2-242. 5 MS. HUGHEY: That's right. 6 Q. Do you see there is an example on 7 that page? 8 A. Um-hum. 9 Q. Do you see the example is dated 10 March 18, 1993? It's right at the top. 11 A. Yes. 12 Q. Does this accurately represent the 13 product that was sold to customers prior to 14 August 10, 1993? 15 A. Yes. 16 Q. Is this a document that was 17 provided to customers prior to August 10, 1993? 18 A. Yes. 19 Q. The next exhibit I'd like you to 20 look at is McEneny Exhibit 2. 21 MR. ROBERTSON: I think you asked 22 these questions already with Exhibit 2 and 23 Exhibit 6? 24 MS. HUGHEY: I don't believe I did. 25 I didn't check them.</p>
<p>1 3. 2 BY MS. HUGHEY: 3 Q. Ms. McEneny, can you please take a 4 look at McEneny Exhibit 6, please. And I 5 believe we previously talked about this 6 document. 7 A. Yes. 8 Q. Did P.O. Writer have a purchasing 9 module in 1993? 10 A. Yes. 11 Q. Can you take a look at page L 12 0126962. And I suppose before you do that I 13 should ask, what is this document again? 14 A. This is the tutorial for the 15 purchasing module of P.O. Writer Plus. And you 16 want 6962? 17 Q. That's right, 6962. 18 MR. REDDY: I'm sorry, just for my 19 benefit, do you mind telling me what page 20 in the manual that is? 21 MS. HUGHEY: Page 4-242. 22 Although -- I'm sorry, I'm at the wrong 23 page myself. 962 are the last three 24 digits. 25 MR. REDDY: I'm sorry, of the</p>	<p>142 144 1 MR. ROBERTSON: Remember we had the 2 confusion about whether it was Defendant's 3 Exhibit 2 or McEneny Exhibit 2? 4 MS. HUGHEY: I started on it before 5 the break but I never got to it. 6 Q. What is this document? 7 A. It's the guided tour for P.O. 8 Writer Plus version 10. 9 Q. And do you see the first page says 10 version 10.0? The very first page, the one you 11 just flipped. 12 A. Yes. 13 Q. Does this accurately represent the 14 product that was sold to customers prior to 15 August 10, 1993? 16 A. Yes. 17 Q. Is this a document that was 18 provided to customers prior to August 10, 1993? 19 A. Yes. 20 Q. Is it accurate to say that the 21 version 10 P.O. Writer manual was a set of 22 volumes or not? 23 MR. REDDY: Objection; leading. 24 Q. You can answer. 25 A. A set of volumes?</p>

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37 (Pages 145 to 148)

<p>1 Q. Yes.</p> <p>2 A. Together the manuals made up the</p> <p>3 volumes. I guess library, whatever you would</p> <p>4 call it. Teaching people how to operate the</p> <p>5 product.</p> <p>6 Q. Do you consider the different</p> <p>7 volumes to be a single publication or not?</p> <p>8 MR. REDDY: Objection.</p> <p>9 A. Yes.</p> <p>10 MR. REDDY: Calls for a legal</p> <p>11 conclusion.</p> <p>12 A. We do consider these to be a single</p> <p>13 publication. You wouldn't ship a version 10</p> <p>14 purchasing manual with a version 11</p> <p>15 requisitioning. They were, you know, version 10</p> <p>16 worked together, it was released and tested so</p> <p>17 that it operated together. So they definitely</p> <p>18 went out as a single version set for whatever</p> <p>19 modules the customer bought.</p> <p>20 Q. Okay. Was the version 10 P.O.</p> <p>21 Writer manual shipped to customers prior to</p> <p>22 August 10, 1993?</p> <p>23 A. Yes.</p> <p>24 Q. Was the P.O. Writer manual publicly</p> <p>25 available and distributed to customers prior to</p>	<p>145</p> <p>1 to prevent them from doing that. But, you know,</p> <p>2 at trade shows for example we would lock them up</p> <p>3 at night. So yes.</p> <p>4 Q. But during the day if somebody came</p> <p>5 by and wanted to look at the manual, is there</p> <p>6 anything that you would do to stop them, would</p> <p>7 you ask them for identification?</p> <p>8 A. We knew who our competitors were.</p> <p>9 If they were standing in our booth trying to</p> <p>10 read our manual we would probably ask them to</p> <p>11 leave.</p> <p>12 Q. If they were a potential customer</p> <p>13 you would probably let them read the manual; is</p> <p>14 that correct?</p> <p>15 A. Oh, absolutely.</p> <p>16 Q. Earlier we spoke about the</p> <p>17 copyright limit on some of the manuals. I</p> <p>18 believe it was -- just grab the ad hoc reporting</p> <p>19 manual as an example, that's Lawson Exhibit 99.</p> <p>20 It's a pretty little one.</p> <p>21 A. There we go.</p> <p>22 Q. And the second page, L 0126397.</p> <p>23 A. Um-hum.</p> <p>24 Q. The third paragraph says "no part</p> <p>25 of this work may be reproduced," and so on,</p>
<p>1 August 10, 1993?</p> <p>2 A. Yes.</p> <p>3 Q. Did you attend trade shows?</p> <p>4 A. Yes.</p> <p>5 Q. Did you have the manuals at trade</p> <p>6 shows?</p> <p>7 A. We did.</p> <p>8 Q. Did you demonstrate version 10</p> <p>9 prior to August 10, 1993?</p> <p>10 A. Yes.</p> <p>11 Q. When you were at trade shows, did</p> <p>12 you have the version 10 manuals at trade shows</p> <p>13 prior to August 10, 1993?</p> <p>14 A. Yes.</p> <p>15 Q. Is it accurate to say that you</p> <p>16 would sell version 10 to any customer who asked</p> <p>17 to buy it or not -- strike that.</p> <p>18 Is it accurate to say that you</p> <p>19 would sell a version 10 product to any customer</p> <p>20 or not?</p> <p>21 A. Yes.</p> <p>22 Q. Did you do anything to stop your</p> <p>23 competitors from reviewing the version 10</p> <p>24 manuals?</p> <p>25 A. Did we do anything? Well, we tried</p>	<p>146</p> <p>1 we've already discussed this paragraph.</p> <p>2 A. Um-hum.</p> <p>3 Q. Is it fair to say that you did not</p> <p>4 want your competitors to obtain your manuals?</p> <p>5 A. Sure.</p> <p>6 Q. Is it fair to say that if your</p> <p>7 customers had made copies of your manuals for</p> <p>8 their personal use that would not have been a</p> <p>9 problem?</p> <p>10 MR. REDDY: Objection; leading.</p> <p>11 A. If a customer made a copy for their</p> <p>12 own personal use to give to a user that they had</p> <p>13 a license for, that wouldn't have been a problem</p> <p>14 for us. What would have been a problem is if</p> <p>15 they made a copy of the manual and the software</p> <p>16 and gave it to somebody, therefore we wouldn't</p> <p>17 get the revenue for it. That would be a</p> <p>18 problem. Or if they would give it to a</p> <p>19 competitor who would read it and look at our</p> <p>20 ideas, that would be a problem. But generally</p> <p>21 speaking if it's just to support a user who's</p> <p>22 licensed, it wouldn't have been a problem.</p> <p>23 Q. Is it accurate to say that this</p> <p>24 statement placed no limitation on who could be</p> <p>25 shown the manual?</p>